

RICHARD J. IDELL, ESQ. (SBN 069033)
ORY SANDEL, ESQ. (SBN 233204)
ELIZABETH J. REST, ESQ. (SBN 244756)
IDELL & SEITEL LLP
465 California Street, Suite 300
San Francisco, CA 94104
Telephone: (415) 986-2400
Facsimile: (415) 392-9259

Attorneys for Herbert Gottlieb, an individual and
SWIdent, LLC, a California Limited Liability Company
(erroneously sued as SWIdent, Inc., a limited liability corporation)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NACIO SYSTEMS, INC., a Nevada Corporation,

Plaintiff,

v.

HERBERT GOTTLIEB and SWIdent, INC., a
California limited liability corporation,

Defendants.

CASE NO. C 07 3481 PJH

**DECLARATION OF HERBERT GOTTLIEB
IN SUPPORT OF DEFENDANT'S REPLY
BRIEF IN SUPPORT OF MOTION FOR
ORDER STAYING LITIGATION**

Date: October 24, 2007

Time: 9:00 a.m.

Place: Courtroom 3, 17th Floor

Complaint Filed: July 3, 2007

Honorable Phyllis J. Hamilton Presiding

I, Herbert Gottlieb, declare as follows under penalty of perjury:

1. I am a Defendant in the above action. All the matters stated herein are of my own personal knowledge and if sworn as a witness I could and would testify competently concerning the matters set forth herein.

2. During the entire period that I was consulting for Plaintiff, I had always believed that the Consulting Agreement had been accepted and ratified by Plaintiff because I was paid the \$1,000 retainer the Consulting Agreement provided and I was paid several invoices under the Consulting Agreement.

1 3. None of Plaintiff's employees or agents ever disputed or denied the terms of the
2 Consulting Agreement or that the Consulting Agreement was valid while I was consulting for Plaintiff.

3 4. On April 18, 2007, my arbitration award against Plaintiff was affirmed by the superior
4 Court of California, County of Marin. A true and complete copy of the Order, including the Final
5 Decision of the Arbitrator, is attached to this Declaration as Exhibit "A."

6 I declare under penalty of perjury the foregoing is true and correct and that this Declaration was
7 executed on the 10th of October, 2007 in San Francisco, California.

8 

9 Herbert Gottlieb
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Idell & Seitel, LLP 465 California Street, Suite 300, San Francisco, California 94104.

On October 10, 2007, I served the following document(s):

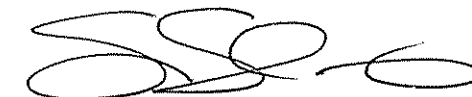
DECLARATION OF HERBERT GOTTLIEB IN SUPPORT OF DEFENDANT'S REPLY BRIEF IN SUPPORT OF MOTION FOR ORDER STAYING LITIGATION

☒ by **ELECTRONIC MAIL**. As this case is subject to the United States District Court for the Northern District of California ECF program, pursuant to General Rule 45, upon the filing of the above-entitled document(s) an automatically generated e-mail message was generated by the Court's electronic filing system and sent to the address(es) shown below and constitutes service on the receiving party.

☒ by regular **UNITED STATES MAIL** by placing a true and correct copy in a sealed envelope addressed as shown below. I am readily familiar with the practice of Idell & Seitel LLP for collection and processing of correspondence for mailing. According to that practice, items are deposited with the United States Postal Service at San Francisco, California on that same day with postage thereon fully prepaid. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter date is more than one day after the date of deposit for mailing stated in this affidavit.

Andrew H. Schwartz
Frank F. Sommers, IV
 Sommers & Schwartz LLP
 550 California Street
 The Sacramento Tower, Suite 700
 San Francisco, CA 94104
 Phone: 415-955-0925
 Fax: 415-955-0927
 Email: ahs@sommersschwartz.com
ffs@sommersschwartz.com

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and I executed this declaration at San Francisco, California.



Suzanne Slavens